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WOOD, HERRON & EVANS, LLP			ANTONIENKO, DEBRA L	
2700 CAREW TOWER			ART UNIT	PAPER NUMBER
441 VINE STREET			3689	
CINCINNATI, OH 45202				

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05/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/772,775	THOMPSON, DAVID	
	Examiner	Art Unit	
	DEBRA ANTONIENKO	3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 February 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-26 and 30-35 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-26 and 30-35 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

1. This is a Non-Final Office Action in response to communications received February 20, 2009, wherein:

Claims 17, 20, 21, and 22 have been amended;

Claims 27-29 have been cancelled;

Claims 30-35 have been newly added; and

Claims 1-26 and 30-35 are pending.

Response to Amendment

2. Amendments to Claims 20-22 regarding the word “may” are sufficient to overcome the 35 USC 112, second paragraph, rejection set forth in the Office Action dated October 29, 2008.

Response to Arguments

3. Claim 17: As to Applicant’s argument that Whitmore does not teach *a plurality of lifestyles* (page 14 of Remarks), Examiner notes that the article is about a furniture store that uses the gallery approach to furniture display, therefore, it is implicit that there would be more than one grouping of furniture. Also, as noted in the previous Office Action, a grouping of furniture and accessories as it would be in a home is showing a lifestyle, a way of life, a style of living. It is implicit and common business sense that the store would showcase more than one lifestyle in its more than one grouping. That the

words are different to describe the same concept does not claim novel limitations.

Examiner asserts that a different name or phrase given to describe the same concept or function does not serve to patentably distinguish the claimed invention over the prior art.

4. Claim 21: As to Applicant's argument that Bonk does not teach *employing computerized marketing correlation data techniques* (page 16 of Remarks), Examiner notes that Bonk employs *an information network that gathers data on markets, customer needs, newest design and production methods* (paragraph 10). That the words are different to describe the same concept does not claim novel limitations.

Examiner asserts that a different name or phrase given to describe the same concept or function does not serve to patentably distinguish the claimed invention over the prior art.

5. Claims 1, 7, 23, and 24: As to Applicant's argument that Kelly does not teach a *plurality of pods, each with home furnishings and decorative accessories being identifiable with different styles or lifestyles* (page 17 and page 23, respectively, of Remarks), Examiner notes that Kelly discloses *sofa/coffee table groupings that look like sunken living rooms... home-like settings... lighting and decorative accessories that accent the room displays* (paragraphs 14-19). Kelly does not use the word "pod" to describe the grouping of furniture. However, that the words are different to describe the same concept does not claim novel limitations. Examiner asserts that a different name or phrase given to describe the same concept or function does not serve to patentably distinguish the claimed invention over the prior art.

6. Claims 6 and 16: As to Applicant's argument that Engel does not teach *any wall partitions, much less any wall partitions dividing pods physically and visually into a plurality of rooms* (page 21 of Remarks), Examiner notes that Engel discloses a *merchandising format that includes three homes built into its furniture and accessories presentation... three full-home displays in its newest store to further the concept of room settings*. It is implicit that a full-home display built to further the concept of room settings would include wall partitions that physically and visually divide the display into a plurality of rooms.

7. Examiner notes that a reference is to be considered not for what it expressly states, but for what it would reasonably have suggested to one of ordinary skill of the art. *In re Delisle*, 160 USPQ 806 (CCPA 1969).

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 7, 8, 23, and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kelly, Mary Ellen; Discount Store News, v28, n19, pH11(2), October 16, 1989: "A Surprisingly New Style for Sears."* (hereinafter Kelly) in view of *Broderick, J. Raymond; Geyer's Office Dealer, v154, n11, p64(2), November 1989: "It doesn't come cheap, so use retail space wisely."* (hereinafter Broderick).

Regarding Claims 1, 7, and 23:

Kelly discloses a store for displaying home furnishings and decorative accessories for sale comprising: a store enclosure (¶5);

a display area within the store enclosure which includes a plurality of pods, each of the pods containing home furnishings and decorative accessories available for sale, the home furnishings and decorative accessories of the different pods being identifiable, respectively, with different ones of a plurality of different lifestyles, the home furnishings and decorative accessories of each respective pod including home furnishings and decorative accessories comprising at least one of furniture, wall coverings, floor coverings, window coverings, electronics, lighting fixtures, sculpture, mirrors or pictures (¶¶14-19); ...

the plurality of pods being visually and physically separated from each other by components comprising at least one of aisles, lighting, floor finish, floor color, floor covering, floor elevation, signage or walls (¶14).

Kelly does not explicitly disclose a checkout location within the store enclosure; an array of intersecting aisles within the display area and providing pedestrian access to, from and among each of the pods and the checkout location, the array including aisles terminating in groupings of furniture compatible with the lifestyles of pods adjacent thereto; an entry space communicating and providing pedestrian passage between the outside of the enclosure and the array of aisles of the display area.

However, Broderick does disclose a checkout location within the store enclosure; ... an array of intersecting aisles within the display area and providing pedestrian access to, from and among each of the pods and the checkout location, the array including aisles terminating in groupings of furniture associated with the lifestyles of pods adjacent thereto (¶¶3-4). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a checkout location within the store as well as pedestrian access to the checkout location in order to allow customers to pay for their purchases.

Furthermore, Official Notice is taken that an entry space communicating and providing pedestrian passage between the outside of the enclosure and the array of aisles of the display area would have

been included. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate an entry space into the store enclosure in order to allow customers to enter the establishment to look at the merchandise.

Regarding Claim 8:
See Claim 1.

Regarding Claims 30-33:

Examiner notes that displaying information about a service in a place of business is old and well-known. This is advertising. Furthermore, Examiner asserts that displaying information about a service in a place of business is merely a common business decision that is made and NOT invention. Also, that the service-related information is for communications, travel, sports, entertainment, grooming, or health does not alter that the display is still just advertising.

10. **Claims 2, 11, and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick and further in view of *Garet, Barbara; Wood & Wood Products, v98, n5, p39(3), April 1993: Taking the mystery out of furniture manufacturing.*" (hereinafter Garet) and *Gilbert, Les; HFD-The Weekly Home Furnishings Newspaper, v63, n37, p8(3), September 11, 1989: "Merchandising By Video: interactive electronic kiosks: the wave of the future?"* (hereinafter Gilbert).

Regarding Claim 2:
Garet discloses the entry space includes a first informational display diagrammatically depicting a process of manufacturing furniture from material acquisition through the finishing of furniture products (¶5). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate informational materials into the store in order to educate the customers.

Gilbert discloses a second informational display depicting the facts relating to a retail entity associated with the store (¶¶2-3). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate other informational displays into the store in order to help customers make their purchasing decision.

Regarding Claim 11:
Official Notice is taken that an entry space communicating and providing passage between the outside of the enclosure and the array of aisles of the display area would have been included. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate an entry space into the store enclosure in order to allow customers to enter the establishment to look at the merchandise.

Gilbert discloses one or more informational displays relating to the manufacture of products (¶¶2-3). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate informational displays into the store in order to help customers make their purchasing decision.

Regarding Claim 12:

Official Notice is taken that an entry space communicating and providing passage between the outside of the enclosure and the array of aisles of the display area would have been included. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate an entry space into the store enclosure in order to allow customers to enter the establishment to look at the merchandise.

Garet discloses the entry space including a first informational display diagrammatically depicting a process of manufacturing furniture from material acquisition through the finishing of furniture products (¶5). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate informational materials into the store in order to educate the customers.

Gilbert discloses a second informational display depicting the facts relating to a retail entity associated with the store (¶¶2-3). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate other informational displays into the store in order to help customers make their purchasing decision.

11. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick and further in view of *Szymanski, Jim; The News Tribune, pD1, May 3, 2000: "Selden's to open midprice outlet."* (hereinafter Szymanski).

Regarding Claims 3 and 13:

Szymanski discloses a design center location within the store enclosure; the array of intersecting aisles providing pedestrian access to, from and among each of the pods and the design center location (¶10). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a design center into the store as well as for the customers to have access to it in order to help customers make their purchasing decision.

12. Claims 4, 5, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick and further in view of *Palmer, Kelly; Springfield Business Journal (Springfield, MO, US), v11, n16, s1, p1, November 5, 1990: "Mulholland to Open Second Store, Expand Product Line."* (hereinafter Palmer).

Regarding Claims 4 and 14:

Palmer discloses an office area within the store enclosure; the array of intersecting aisles providing pedestrian access to, from and among each of the pods and the office area (¶5). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate an office area into the

store as well as for the customers to have access to it in order to help customers decide any financial obligations.

Regarding Claims 5 and 15:

See Claims 3 and 4, and 13 and 14, respectively.

13. **Claims 6, 9, and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick and further in view of *Engel, Clint; Furniture Today, p6, August 24, 1998: "Ikea's big Chicago store to feature three homes."* (hereinafter Engel).

Regarding Claims 6 and 16:

Engel discloses at least one of the pods includes wall partitions internal to the pods dividing the pods physically and visually into a plurality of rooms (¶1). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate pods within pods or in other words rooms within rooms just like a real house in order to help customers make their purchasing decision.

Regarding Claim 9:

Engel discloses groupings of furniture associated with the lifestyles of pods adjacent thereto (¶1). Engel discloses three full-house displays. It is implicit that there would be a coordination or association between the different rooms of each full-house display. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to take into consideration neighboring displays in order to present the merchandise in a pleasing fashion.

Kelly further discloses the array including aisles terminating in the groupings (¶16).

14. **Claim 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick and further in view of *Herlihy, Janet; HFN, The Weekly Newspaper for the Home Furnishing Network, p28(1), October 26, 1998: "Rugs Gain Ground at Ikea."* (hereinafter Herlihy).

Regarding Claim 10:

Kelly further discloses at least some of the groupings of furniture are visible for the length of the aisle that terminates in the respective grouping such that characteristics of a lifestyle can be perceived by a customer throughout the length of the aisle (¶16).

15. **Claims 17, 20, 22, 34, and 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Rutledge, K. Dawn; Nashville Business Journal (Nashville, TN, US), V11, N45, p20, November 11, 1996: "Dreams translate into market-dominating stature."* (hereinafter Rutledge) in view of *O'Toole, Patrick L.; Professional Builder (1993), 65, 13, 68, November 2000: "Habitat for High Tech Couples."* (hereinafter O'Toole).

Regarding Claim 17:

Rutledge teaches a method of displaying furniture and accessories for retail sale comprising:

arranging a retail furniture display according to the data, the display having furniture groupings decorated and positioned to identify customers of different ones of the plurality of lifestyles by attracting those customers on the basis of the corresponding lifestyle to different areas of a store; and arranging furniture accessories and other non-furniture products in the store for display by locating products among the different areas in accordance with the marketability of such products to the customers so attracted to the respective areas (page 2). Rutledge discloses a furniture store with a display of not only 400 room settings, but 30,000 decorative items in upholstery fabrics, draperies, bedspreads, and more than 25,000 accessories which include blinds, shutters, wallpaper and chandeliers. Rutledge also discloses the use of surveys and marketing data to tell us about our business.

Rutledge does not explicitly teach obtaining at least one of marketing or psychological data on furniture attractive to customers of a plurality of demographics associated with corresponding pluralities of lifestyles. However, O'Toole discloses that *[m]any of the market research firms today not only provide demographic information, but they also provide analysis of lifestyle preferences* (page 2). Rutledge discloses the use of surveys and marketing data, therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Rutledge to include demographic information and lifestyle analysis in setting up the displays. Furthermore, market research is old and well-known.

Regarding Claim 20:

Rutledge and O'Toole teach the limitations of Claim 17 as described above.

Rutledge teaches determining the furniture accessories and other non-furniture products attractive to customers who are attracted to the respective areas of the store; and arranging the furniture accessories and other non-furniture products in the store for display by locating products among the different areas in accordance with the determination (page 2).

Rutledge does not explicitly teach products attractive to customers of particular demographics. However, Rutledge discloses that they rely on surveys and marketing data to tell us about our business. O'Toole discloses that *[m]any of the market research firms today not only provide demographic information, but they also provide analysis of lifestyle preferences* (page 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Rutledge to include demographic information and lifestyle analysis in the surveys and marketing data to help in setting up the displays.

Regarding Claim 22:

Rutledge and O'Toole teach the limitations of Claim 20 as described above.

Rutledge teaches determining includes selecting one or more persons skilled in an art selected from the group consisting of design, decorating, marketing, and merchandising, and having such person or persons make, based on their knowledge, experience or skill, the determination of what furniture accessories and other non-furniture products are attractive to the customers so attracted to the respective areas of the store (page 2). Rutledge employs 35 professional designers.

Rutledge does not explicitly teach that products are attractive to the customers of particular demographics. However, Rutledge discloses that they rely on *surveys and marketing data to tell us about our business*. O'Toole discloses that *[m]any of the market research firms today not only provide demographic information, but they also provide analysis of lifestyle preferences* (page 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Rutledge to include demographic information and lifestyle analysis in the surveys and marketing data to help in setting up the displays.

Regarding Claims 34 and 35:

Examiner notes that displaying information about a service in a place of business is old and well-known. This is advertising. Furthermore, Examiner asserts that displaying information about a service in a place of business is merely a common business decision that is made and NOT invention. Also, that the service-related information is for communications, travel, sports, entertainment, grooming, or health does not alter that the display is still just advertising.

16. **Claims 18 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutledge in view of O'Toole and further in view of *Kelly, Mary Ellen; Discount Store News, v28, n19, pH11(2), October 16, 1989: "A Surprisingly New Style for Sears."* (hereinafter Kelly).

Regarding Claim 18:
Rutledge and O'Toole teach the limitations of Claim 17 as described above.

Neither Rutledge nor O'Toole disclose so attracting the customers by decorating and furnishing said area of the store such that it is visible from a location remote from said area.

However, Kelly discloses so attracting the customers by decorating and furnishing said area of the store such that it is visible from a location remote from said area (¶16). It would have been obvious to one of ordinary skill in the art at the time of the invention to have displays visible from remote locations in order to attract customers to look at the displays.

Regarding Claim 19:
Rutledge and O'Toole teach the limitations of Claim 17 as described above.

Neither Rutledge nor O'Toole disclose so attracting the customers by decorating and furnishing said area of the store such that it is visible from an aisle in the store from a location remote from said area.

However, Kelly discloses so attracting the customers by decorating and furnishing said area of the store such that it is visible from an aisle in the store from a location remote from said area (¶16). It would have been obvious to one of ordinary skill in the art at the time of the invention to have displays visible from remote locations in order to attract customers to look at the displays.

17. **Claim 21** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rutledge in view of O'Toole and further in view of *Bonk, Eugene T.; Journal of Small Business Management, v34, n1, pp71-77, January 1986: "The information revolution and its impact on SME strategy."* (hereinafter Bonk).

Regarding Claim 21:

Rutledge and O'Toole teach the limitations of Claim 20 as described above.

Neither Rutledge nor O'Toole disclose the determining includes employing computerized marketing data correlation techniques to identify what furniture accessories and other non-furniture products are attractive to the customers of particular demographics so attracted to the respective areas of the store.

However, Bonk discloses *an information network that gathers data on markets, customer needs, newest design and production methods* (paragraph 10). That the words are different to describe the same concept does not claim novel limitations. Examiner asserts that a different name or phrase given to describe the same concept or function does not serve to patentably distinguish the claimed invention over the prior art.

Rutledge discloses that they rely on *surveys and marketing data to tell us about our business*. O'Toole discloses that *[m]any of the market research firms today not only provide demographic information, but they also provide analysis of lifestyle preferences* (page 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Rutledge to include demographic information and lifestyle analysis in the surveys and marketing data to help in setting up the displays.

18. **Claims 24-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kelly, Mary Ellen; Discount Store News, v28, n19, pH11(2), October 16, 1989: "A Surprisingly New Style for Sears."* (hereinafter Kelly) in view of *Broderick, J. Raymond; Geyer's Office Dealer, v154, n11, p64(2), November 1989: "It doesn't come cheap, so use retail space wisely."* (hereinafter Broderick).

Regarding Claim 24:

Kelly discloses a retail furniture store comprising: a plurality of pods, each pod corresponding to a furnished room decorated according to a respective lifestyle (¶14-15); ...

a corresponding furniture display located adjacent each set of related pods, each corresponding furniture display having a design associated with the corresponding set of related pods (¶14-15).

Kelly does not explicitly disclose a plurality of aisles segmenting the plurality of pods into a plurality of sets of one or more related pods.

However, Broderick does disclose a plurality of aisles segmenting the plurality of pods into a plurality of sets of one or more related pods (¶3). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate aisles among the displays in order for customers to be able to easily move from one display to another.

Regarding Claim 25:

Kelly and Broderick teach the limitations of Claim 24 as described above.

Broderick further teaches each corresponding furniture display is located at an end of one of the aisles (¶3). It would have been obvious to one of ordinary skill in the art at the time of the invention to have corresponding displays at the endcaps of aisles in order to attract customers to the particular aisle.

Regarding Claim 26:

Kelly and Broderick teach the limitations of Claim 24 as described above.

Broderick further teaches a checkout location (¶4). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a checkout location within the store in order to allow customers to pay for their purchases.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBRA ANTONIENKO whose telephone number is (571)270-3601. The examiner can normally be reached on Monday through Thursday, 7:30 AM to 4:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DA

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689